

After the Fire

How these properties are reused
and EPA's capabilities to assist

February 04

What are Brownfields?

New Legislation:

“real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”

A Simpler Definition is:

Any real-estate transaction impeded because concerns over environmental conditions on the property.

Brownfields Link to Superfund

- Superfund History – Congress established CERCLA in 1980 in response to growing concern over health and environmental issues posed by hazardous waste sites.
- Superfund's liability procedure is to ensure Potentially Responsible Parties (PRPs) and property owners are held accountable for their actions and properties.

How did the Superfund Liability Procedure Help Create the Brownfields Problem?

- Scares any potential purchasers or developers.
- Scares lenders from investing on these projects. (e.g., bankers, developers).
- Resolving the liability issues takes a long time.

Why Do Developers Shun These Sites?

- Unknown costs and unknown time frames.
- Federal and State Liability issues.
- Often there is no clear title.
- Uncooperative owners.
- Often they have bad transportation access.
- Old infrastructure.
- Other nearby land is cheaper and easier to work on.(E.g, open space, farmland).

Why these Sites are a Problem for Local Governments

- Safety.
- Often the site is not paying taxes.
- Gangs\hangouts.
- Blighting influence on the surrounding neighborhood.
- Possible contamination risks.
- Not a marketable property contaminated or not.

How did EPA Respond to this Problem?

- Brownfields Program encourages Market Incentives and Private Sector Actions.
- EPA's main philosophy is to help build capacity at the State, Tribal, and Local Government level to manage these properties.
- IT IS NOT A REGULATORY PROGRAM!
- Technical Assistance
- Financial Assistance
- Coordinating Partnerships

Legislative Background

- Brownfield Program lacked legislative authority
- Operated under Superfund law and rules (NCP)
- New legislation was signed into law on January 11, 2002, by President Bush

Biggest Positive Impacts, from my perspective

- Innocent landowner (Bona Fide Prospective Purchaser) provision is a huge help and should minimize PPAs. EPA will have to craft rules or guidance on what constitutes due diligence.
- Brownfields funding could be spent on sites with Petroleum contamination.
- Restricts Federal enforcement action under 106(a) or cost recovery actions under 107(a) at any eligible response site at which a person is conducting a response in compliance with a State VCP program

How does EPA work with Local Governments?

- EPA through a **cooperative** agreement passes funds to local governments to use to study the property(s).
- The local government is in control of the process. EPA is a partner and provides assistance when asked.
- EPA does not make decisions about the cleanup or end-use of the property.
- Depending on the community, the relationship can be much more than just giving them the \$\$\$\$s.

Brownfield Grants Program

The next Grant cycle **should** open by 11/2004.

- Site Assessment Funding
- Cleanup Funding
- Brownfields Revolving Loan Funding
- Job Training Funding

Job Training will have its own guidelines. Please call Linda Morgan at (312) 886-4747 for information.

Bowser Pump Site Story

- Fort Wayne, Indiana.
- Old, abandoned 12-acre industrial site in the middle of a residential neighborhood.
- The site consisted of 3 parcels (A,B, and C).
- 1997, the site caught fire and burned for three days.

Weekend tire fire forces evacuation

Firefighters remain at Bowser Ave. site

By John McGauley
of The News-Sentinel

For most of the past two days, city fire officials have been anticipating the day when the old Fort Wayne Recycling warehouse would be up in flames. For the most part, they anticipated a scenario far worse than the one that came to pass.

The tire fire at 2323 Bowser Ave. continued to burn this morning, two days after it began, and hundreds of nearby residents remained evacuated from their homes.

Firefighters and police continued an around-the-clock presence at the scene. Fire crews expected to remain on the scene at least another day, and Gov. Frank O'Bannon was scheduled to visit the area this afternoon. Afterward, O'Bannon was to meet with Mayor Paul Helmke and

emergency officials to listen to their needs and concerns.

Depending on one's perspective, Saturday was the best of times and the worst of times for the Bowser Avenue tire inferno to have happened.

On one hand, it was the weekend — most of the nearly 400 people who work in the neighboring Fort Wayne Police Department were gone, and nearby Runche Elementary School wasn't in session.

On the other hand, it was Labor Day weekend, and thousands of nearby residents were in the middle of the danger zone, at home enjoying the first day of summer's last holiday weekend.

Hundreds of them — mainly residents of Eden Green and Oaklawn Court apartments — were driven

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Tire warehouse owners ignored responsibilities

Brian Hilger and
Phil Alber have
eluded officials.

By Susan Vela
of The News-Sentinel

Wanted: Brian Hilger and Phil Alber.

Fort Wayne, Allen County and Indiana officials have spent years trying to pin down the two owners of an abandoned tire warehouse in an attempt to avoid what happened Saturday.

With about a half-million tires still inside, the building at 2323 Bowser Ave. caught fire about 12:50 p.m., forcing several hundred residents to evacuate their homes.

and other emergency workers remained on the scene today, officials weren't expecting Hilger and Alber to make themselves known any time soon.

It would mean assuming financial responsibility for the fire's cleanup costs and the firm at least \$53,000 to the county in back taxes and more than \$117,000 to the city for maintenance, trash removal, demolition and boarding of the facility.

"We don't expect to get a phone call from them," said Neo-Blair, spokesman for the Indiana Department of Environmental Management. "Let's be logical. They would have already done that. We've been running

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THE VIEW SATURDAY



Smoke rises Saturday from the abandoned tire warehouse on Bowser Avenue. Debris from the plume of smoke fell several miles away.

By Susan Vela/Staff of The News-Sentinel



Who Is Responsible?



Responsible Parties

- The Bowser Pump Company is bankrupt.
- The operator of the tire recycling operations is bankrupt.
- No one had paid taxes on the property for more than 15 years.
- All other potentially responsible parties had legally protected themselves from any law suits.
- Unfortunately, the burden to deal with this property fell on Fort Wayne, IN.
- CONTROL OF THE PROPERTY IS ESSENTIAL!





ROADWAY





Getting Started: The Messy Process

- Get control (access) of the property. (This can take years).
- Alert the community of any planned activities.
- Manage Expectations
- Demolition (usually biggest cost).
- Begin the property investigations.(This could take several years).
- Inform residents of results.

How Did the EPA Brownfields Grant Help?

Fort Wayne working with the State of Indiana began to investigate the site.

- Phase I (historical study of past operations).
- Geophysical Survey (three different surveys).
- Initial screening (done by the State of Indiana).
- Phase II (took an entire summer to complete).

How Did the EPA Grant Help?

- Allowed the City of Fort Wayne hire a Brownfields Coordinator.
- EPA funds were used to pay 50% of salary for 2 years.
- Provided the City with an employee with years of experience in the environmental and real estate fields.
- Funded a Real Estate Market Study









Results of Site Assessment

- Site was not as contaminated as was expected. One parcel of the three was determined to not be contaminated

What Next?

- Is a cleanup needed?
- Can the site be redeveloped?
- What end uses are appropriate?
- What does the community want?
- Who pays for the cleanup?
- Market the property. Is anyone interested in the property? (It can be very difficult to attract a developer to these types of properties)

Good Things Can Happen, But Slowly!

- Success, 2 years after the city of Fort Wayne began to work on property!
- City and State funds paid for the cleanup and restoration of the site, including demolition of the property's charred and unsafe building and removal of tires from a tire storage area.
- The City financed installation of essential public infrastructure with a grant from HUD's Economic Development Initiative combined with State and Local funds.

Good Things Can Happen, But Slowly!

- Five of the 34 homes to be constructed are completed as of August, 2003
- The 50-unit senior citizen apartment building was projected to be opened October 1, 2003









